

NA 05-0066-C H/H Pruett v Anthem Insurance  
Judge David F. Hamilton

Signed on 08/15/05

NOT INTENDED FOR PUBLICATION IN PRINT

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA  
NEW ALBANY DIVISION

DIANA L. PRUETT,	)	
JERALD PRUETT,	)	
	)	
Plaintiffs,	)	
vs.	)	NO. 4:05-cv-00066-WGH-DFH
	)	
NASCO,	)	
BLUE CROSS BLUE SHIELD OF	)	
MICHIGAN,	)	
	)	
Defendants.	)	

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA  
NEW ALBANY DIVISION

DIANA L. PRUETT and JERALD PRUETT,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	
	)	CASE NO. 4:05-cv-0066-DFH-WGH
ANTHEM INSURANCE COMPANY d/b/a	)	
ANTHEM BLUE CROSS-BLUE SHIELD	)	
a/k/a BLUE CROSS BLUE SHIELD OF	)	
MICHIGAN and NASCO,	)	
	)	
Defendants.	)	

ENTRY

Defendants' motion to strike plaintiffs' requests for compensatory and punitive damages and plaintiffs' jury demand is hereby granted. Defendants' motion to dismiss plaintiffs' claim for bad faith denial of insurance coverage is also granted. Defendants' motion to dismiss plaintiffs' claim for breach of contract is denied, but the claim must be characterized as a claim for benefits under ERISA, 29 U.S.C. § 1132(a)(1)(B).

Plaintiffs have alleged that defendants wrongfully and in bad faith denied health insurance coverage. The insurance coverage is a benefit under an employee welfare plan covered by ERISA. The law is well established that ERISA preempts the state law claims. See *Pilot Life Ins. Co. v. Dedeaux*, 481 U.S. 41, 57

(1987), and that plaintiffs' remedies are limited to the equitable remedies available under ERISA, *Harsch v. Eisenberg*, 956 F.2d 651, 655 (7th Cir. 1992) (rejecting claims for compensatory and punitive damages), and following *Massachusetts Mutual Life Ins. Co. v. Russell*, 473 U.S. 134 (1985). Also, the trial will be to the court, not to a jury. *Brown v. Retirement Committee of Briggs & Stratton Retirement Plan*, 797 F.2d 521, 527 (7th Cir. 1986); *Wardle v. Central States, Inc.*, 627 F.2d 820, 829 (7th Cir. 1980). The case will proceed as one seeking benefits pursuant to 29 U.S.C. § 1132(a)(1)(B).

So ordered.

Date: August 15, 2005

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DAVID F. HAMILTON, JUDGE  
United States District Court  
Southern District of Indiana

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